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NUNAVUT COURT OF JUSTICE
La Cour de justice du Nunavut

Citation: ***R. v. L.P.*, 2013 NUCJ 04**

Date: 20130219

Docket: 14-12-39

Registry: Iqaluit

Crown: **Her Majesty the Queen**

-and-

Accused: **L.P.**

Before: The Honourable Madam Justice Cooper

Counsel (Crown): P. Christie

Counsel (Accused): K. Kellough

Location Heard: Arviat, Nunavut

Date Heard: January 31, 2013

Matters: *Criminal Code*, s. 241(a)

REASONS FOR JUDGMENT

(Delivered Orally)

(NOTE: This document may have been edited for publication)

I. INTRODUCTION

- [1] Every day in Nunavut far too many parents struggle with the loss and despair that inevitably flows from having lost a child. This loss and despair is even more acute when the child has taken her own life.
- [2] The prevalence of suicide in Nunavut is well known. Suicide rates that are 10 to 12 times the national average plague our communities. The vast majority of these suicides are young people between the ages of 15 and 24.
- [3] Everyone in Nunavut has been affected by suicide, either because they have experienced the suicide of a family member or friend, or because they themselves have attempted suicide. No one can live in Nunavut and not be sensitized to this issue.

II. ISSUE

- [4] This is the context in which L.P. told her 17 year old daughter that she did not want her and she should kill herself. These statements were not made on only one occasion, but on numerous occasions over a period of two months. Her daughter took the comments to heart. She attempted suicide numerous times. Two of those attempts were immediately after her mother counseled her to do so. She was medevaced to the south on at least one occasion.
- [5] The nature of this offence is simply beyond the comprehension of right thinking people. It is only through luck and the work of medical and mental health professionals that the daughter is alive today. While her body might be fully recovered, the psychological and emotional damage is bound to be deep and everlasting.
- [6] The circumstances leading to the daughter's suicide attempts came to light when she disclosed them to a mental health worker, at which time the mother was charged with the offences before the Court and the daughter and her younger brother, who is one year old, were taken into the care of Social Services.

- [7] L.P. is 38 years of age. She has been in a common law relationship for approximately three years. Apparently her common law partner is currently in custody. I am advised that L.P. has intellectual limitations and may herself have experienced some mental health issues in the past. Unfortunately, there is very little information before the Court regarding L.P.'s issues.
- [8] The circumstances before the Court are profoundly sad and the Court recognizes that the sentence which is imposed must provide the support and services needed by L.P., while at the same time ensuring the protection of her daughter.
- [9] It is in recognition of the limitations of L.P., that the Crown has asked for a short, sharp period of incarceration, followed by a lengthy period of probation, with a requirement that she undergo an assessment and mental health counselling.
- [10] Defence counsel is substantially in agreement.

III. SENTENCING

- [11] I am prepared to accede to that submission. However, before passing sentence I would like to make a few comments. The daughter was in court with a social worker and the Court was able to get some information directly from the social worker. My comments are not intended to be critical of any particular person. I recognize that everyone is doing their best, often with minimal resources. I also appreciate that I do not necessarily have all of the information that the agencies involved in this matter have.
- [12] The Court has been advised that, at the time the charges were laid, both children (those being the 17 year old daughter and a one year old son in the care of L.P.) were apprehended and placed in care with a family member.

- [13] L.P. was arrested and released on an undertaking. There were strict conditions in the undertaking designed to ensure that L.P. had no contact with her daughter. L.P. has been seeing her daughter on a daily basis. The boy has been returned to L.P.
- [14] There are a number of concerns with this.
- [15] First, L.P. is subject to a court order that she not have any contact with her daughter. Social Services were aware of this and if they were not, they should have been, given that the apprehension either precipitated or followed the laying of the criminal charge. They should not be turning a blind eye to, let alone facilitating, the breach of a court order. If they are of the view that contact is appropriate then they should assist L.P. in making an application to vary the conditions of the undertaking.
- [16] Further, while there is daily contact between L.P. and her daughter, it is not clear if there is evidence to support the proposition that this is in the best interests of the child. The Court has been advised that the daughter “feels safe” when she has these visits, but this is quite different from the visits being in her best interests. It is understandable that the daughter would have conflicting emotions about her mother. It is the job of those responsible for her care to make decisions that are in her best interests and to protect her physical, mental and emotional health. It would seem that, absent a psychiatric assessment supporting reconciliation, such contact is risky.
- [17] Finally, the Court has been advised that the one year old boy has been returned to L.P. as there are no protection concerns with respect to him. The nature of the matter before the Court makes it abundantly clear that there are parenting issues in the home. The Court is not aware of the mother having undergone a parenting assessment so that such issues are identified, let alone addressed. While the boy’s physical health might not be at risk, it is difficult to be as confident with respect to his mental and emotional health.

[18] I am going to direct that a transcript of these proceedings be provided to the Civil Registrar of the Nunavut Court of Justice and placed on the child protection file so that the judge who hears that matter is aware of how the criminal charges were resolved.

[19] With respect the charge of counselling suicide, the sentence is as follows.

- a) There will be a period of incarceration of five days, followed by a period of probation of two years.

[20] The terms of your probation order will be as follows:

- a) You shall keep the peace and be of good behaviour;
- b) You shall appear before the court when required to do so by the court;
- c) You shall notify the court or your probation officer in advance of any change of name or address, and promptly notify the court or your probation officer of any change of employment or occupation;
- d) You shall report to a probation officer within two days of your release from prison and thereafter as directed;
- e) You shall take such counselling as directed by the probation officer including parenting counselling or classes;
- f) You shall undergo a parenting assessment, a copy of which is to be provided to Social Services;
- g) You shall have no contact directly or indirectly with your daughter unless you have the approval of your probation officer and Social Services; and

- h) If you are allowed to have contact with your daughter, if your daughter or her foster parent asks you to leave your daughter's presence, you must do so immediately and you must stay away until contact is approved by your probation officer and Social Services.

Dated at the City of Iqaluit this 19th day of February, 2013

Justice S. Cooper
Nunavut Court of Justice